

REMARKS/ARGUMENTS

Entry of this response and reconsideration and allowance of the above-identified patent application are respectfully requested. Claims 10-14, 16-21, 23-36 and 38-64 were rejected in the office action. Claims 11, 12, 23, 29, 44-46, 48, 58 and 64 have been amended. No claims have been added or canceled. Therefore, following entry of the present response, claims 10-14, 16-21, 23-36 and 38-64 will be pending in the present application.

This application claims priority under 35 U.S.C. § 119(e) from provisional application no. 60/197,615, filed April 14, 2000. Examiner is respectfully requested to acknowledge priority under 35 U.S.C. § 119(e) in the next communication.

The Examiner is respectfully asked to initial and consider the patentability of the present invention in light of the newly-cited references submitted herewith in the Supplemental Information Disclosure Statement (SIDS). The Examiner also is respectfully asked to initial and consider the patentability of the present invention in light of the Supplemental Information Disclosure Statement (SIDS) previously filed July 17, 2002.

The drawings were objected to under 37 CFR 1.83(a) for failure to show every feature of the invention specified in the claims. First, the office action states that the drawings fail to depict that the aggregation device is in communication with the point of presence via a wireless link. This claim element is supported throughout the application and, for example, at paragraph 21, which states that "[t]he backhaul to the POP can utilize any type of technology, such as optical fiber, copper, or a wireless link." Figure 2 has been modified to include

reference number "950," which references the link from the AP to the POP.

Corresponding, reference number "950" has been added to the application at paragraph 21, line 3, after the word "backhaul." This change serves merely as a label for existing items reflected in the Figures. No new matter has been added. Thus, the claimed elements are shown in the drawings and applicant respectfully requests withdrawal of the objection.

In addition, the drawings are objected to for failure to illustrate the third modem, the fourth modem, and the data router in communication with the third and fourth modem. As shown in Figure 2, the present invention may comprise a plurality of power line bridges (PLB) 120 and an aggregation point (AP) 110. Each PLB 120 may be comprised of those elements shown in Figure 4, which includes, among other things, two modems (modem 450 and 430) and a router (router 440). In addition, the AP also may comprise modem (modem 320) among other elements. The numerical references (*e.g.*, third, fourth, etc.) are used in the claims simply to distinguish the numerous modems from each other in the claims. Thus, the claimed elements are shown in the drawings and applicant respectfully requests withdrawal of the objection.

Examiner is respectfully requested to acknowledge receipt and acceptance of the drawings as formal.

Claim 44 was objected to for claiming priority to a canceled claim. Claim 44, and claims 45 and 46 have been appropriately amended to be dependent from claim 10. Applicant respectfully requests withdrawal of the objection.

Claims 11, 23, 29, 48, 58 and 64 have been amended to correct typographical errors, antecedent basis, or more clearly claim the present invention.

Claims 10-13, 16-18, 21, 26, 28, 29, 32, 36, 38, 39, 44, 47-50, 52, 53, 57, 58, 62 and 64 stand rejected under 35 U.S.C. § 102 (g) as being anticipated by U.S. Pat No. 6,562,482 to Cern ("Cern"). Claims 14, 19, 24, 27, 31, 33-35, 54-56, 60 and 63 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cern in view of U.S. Pat. No. 6,144,292 to Brown ("Brown"). Claim 23, 30, 45 and 59 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cern in view of U.S. Pat. No. 5,272,462 to Teyssandier *et al.* ("Teyssandier"). Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Cern and Teyssandier, in further view of Brown. Claims 20, 33, 40-43, 51 and 61 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cern and U.S. Pat. No. 6,480,510 to Binder ("Binder"). Claims 25 and 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cern and Teyssandier and further in view of Binder.

Briefly, in one of the claimed embodiments, the invention contemplates a method of communicating data signals over a medium voltage power line. This embodiment includes a transformer bypass device that communicates data from a low voltage power line to a medium voltage power line (for upstream communications). At a different location, the data is received via the medium voltage power line by an aggregation device that communicates the data to a point of presence. Numerous transformer bypass devices may be in

communication with one aggregation device. Data may also flow in the downstream direction.

The claims stand rejected under 35 U.S.C. § 102(g) as being anticipated by Cern. Applicant would like to thank the Examiner for agreeing that alleged rejection of the claims should have been made under 35 U.S.C. § 102(b), and not 35 U.S.C. § 102(g). Accordingly, applicant proceeds to address the rejection over Cern under 35 U.S.C. § 102(b).

The present invention also was rejected under 35 U.S.C. § 103(a) as being unpatentable over Cern in view of one or more other references. Cern was filed on December 28, 2000 and claims priority to two provisional applications – U.S. Provisional Appl. No. 60/173,808, which was filed on December 30, 1999 and U.S. Provisional Appl. No. 60/198,671, which was filed on April 20, 2000. Thus, the earliest effective priority date of Cern is December 30, 1999.

Applicant's application claims priority to provisional U.S. application No. 60/197,615, which was filed on April 14, 2000.

As stated in 37 C.F.R. § 1.131(a),

When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, MPEP 715.02 states that "Applicant may overcome a 35 U.S.C. 103 rejection based on a combination of references by showing

completion of the invention by applicant prior to the effective date of any of the references.”

As described in the attached declaration pursuant to 37 C.F.R. § 1.131, Paul Kline, the sole inventor in the present application, conceived of the invention as claimed herein prior to December 30, 1999, and therefore, prior to the earliest effective date of Cern. In addition, Mr. Kline diligently pursued the reduction to practice of the invention from prior to December 30, 1999 until April 14, 2000, the filing date of the provisional application 60/197,615 to which the present application claims priority.

Accordingly, Cern is antedated by the Applicants' invention. Therefore, claims 10-13, 16-18, 21, 26, 28, 29, 32, 36, 38, 39, 44, 47-50, 52, 53, 57, 58, 62, and 64 should not be rejected under 35 U.S.C. § 102 (b) as being anticipated by Cern. Similarly, claims 14, 19, 20, 23-25, 27, 30, 31, 33-35, 40-43, 45, 46, 51, 54-56, 59-61 and 63 should not be rejected under 35 U.S.C. § 103(a) as being unpatentable over Cern (either alone or in combination with any other reference).

Withdrawal of the rejection of claims 10-13, 16-18, 21, 26, 28, 29, 32, 36, 38, 39, 44, 47-50, 52, 53, 57, 58, 62 and 64 under 35 U.S.C. § 102 (b) and claims 14, 19, 20, 23-25, 27, 30, 31, 33-35, 40-43, 45, 46, 51, 54-56, 59-61 and 63 under 35 U.S.C. § 103(a) is respectfully requested.

CONCLUSION

In view of the foregoing, applicant respectfully submits that the claims are allowable and that the present application is in condition for allowance.

Reconsideration of the application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow the present application for any reason, the Examiner is encouraged to contact the undersigned attorney, Vincent J. Roccia at (215) 564-8946, to discuss resolution of any remaining issues.

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